

THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NEXPOINT STRATEGIC OPPORTUNITIES FUND,

Plaintiff,

v.

ACIS CAPITAL MANAGEMENT, L.P., U.S. BANK,
N.A., JOSHUA N. TERRY, BRIGADE CAPITAL
MANAGEMENT, L.P.,

Defendants.

Docket No.: 1:21-cv-04384-GHW

NOTICE OF MOTION

**ORAL ARGUMENT
REQUESTED**

PLEASE TAKE NOTICE, that upon the attached Declaration of Mark D. Kotwick, dated January 27, 2022, together with the exhibits attached thereto, the accompanying Memorandum of Law, and all prior pleadings and proceedings had herein, Defendant U.S. Bank, National Association will move this Court, before the Honorable Gregory H. Woods, United States District Judge, at the United States Courthouse located at 500 Pearl St., Courtroom 12C, New York, New York 10007, at a time and date convenient for the Court, for an order pursuant to Fed. R. Civ. P. 12(b)(6) dismissing the Second Amended Complaint for failure to state a claim upon which relief can be granted and for such other, further and further relief as the Court deems just and proper.

New York, New York
January 27, 2022

Respectfully submitted,

SEWARD & KISSEL LLP

By: /s/ Mark D. Kotwick

Mark D. Kotwick
Thomas Ross Hooper
Julie J. Hong

One Battery Park Plaza
New York, NY 10004
Telephone: (212) 574-1200
Facsimile: (212) 480-8421

*Attorneys for U.S. Bank, National Association, in
its capacity as Indenture Trustee*